

5 Administrative Enforcement Records

This section provides the procedures for pipeline administrative enforcement records. It includes a discussion of the documents required to be sent to the Compliance Registry Coordinator. The Compliance Registry Coordinator enters all data and documents into the Compliance Registry (SMART Enforcement module).

Certain documents sent to the Compliance Registry are also uploaded to the enforcement transparency website, and therefore have special format requirements.

The Program Analyst prepares and maintains detailed instructions for the entry of case data and documents in the Compliance Registry. These instructions are used by the Compliance Registry Coordinator to ensure that case data and documents are entered completely and accurately into the Compliance Registry.

5.1 Records Retention

Under the Federal Records Act (44 U.S.C. Chapter 31), PHMSA may not dispose of Federal records unless done in accordance with a records retention and disposition schedule approved by the National Archives and Records Administration (NARA). Administrative enforcement records must therefore be retained in accordance with an approved records schedule as required by the NARA regulations (36 C.F.R. Part 1228). A records schedule prescribes the retention periods and disposition of enforcement documents.

As the official custodian of administrative enforcement records, the Enforcement Division retains administrative enforcement documents and data for each case in electronic format in the Compliance Registry. The Enforcement Division keeps these records pursuant to the approved NARA records schedule.

Each Region retains its copies of administrative enforcement documents for each case file for at least five years from the date of case closure.

The regulations (49 CFR 190.5) require that each order, notice, or other document required to be served under Part 190 must be served personally, by registered or certified mail, overnight courier, or electronic transmission by facsimile or other electronic means that includes reliable acknowledgement of actual receipt. Each region is to use US Postal Service certified mail for all administrative enforcement letters. An alternative delivery service may be used as long as PHMSA obtains an acknowledgement of actual receipt by the respondent. Each Region and Office of Chief Counsel will retain their proofs-of-receipt for each Document until the case is closed.

5.2 Designation of Compliance Progress File (CPF) Numbers

For each enforcement case created in WMS-Enforcement, the unique CPF number for each enforcement case is system generated when issues are batched. The format of the number is: R-YYYY-SSS-TT(TTT) (example 5-2020-003-NOPV)

R	PHMSA Region	1 = Eastern Region 2 = Southern Region 3 = Central Region 4 = Southwest Region 5 = Western Region 9 = Headquarters
YYYY	Year	Four-digit year the case was opened, to match the date of the first enforcement letter
SSS	Serial number	Three-digit number generated and assigned by the system for each case
TT(TTT)	Acronym for Enforcement Letter Type	NOPV = Notice of Probable Violation LOC = Letter of Concern ENOPV=Excavation Damage Notice of Probable Violation CAO = Corrective Action Order or Notice of Proposed Corrective Action Order NOA = Notice of Amendment NOPSO = Notice of Proposed Safety Order WL = Warning Letter EWL = Excavation Damage Warning Letter*

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For each enforcement case created in SMART, the Region personnel assign a unique CPF number for each enforcement case. The format of the number is: R-YYYY-FSSST (example 5-2003-2003W)

R	PHMSA Region	1 = Eastern Region 2 = Southern Region 3 = Central Region 4 = Southwest Region 5 = Western Region 9 = Headquarters
YYYY	Four digits of the year the case was opened, to match the date of the first enforcement letter	
F	Facility Type	0 = intrastate onshore gas 1 = interstate onshore gas 2 = offshore gas 3 = LNG 4 = LNG/Gas combination, 5 = Interstate onshore liquid 6 = Intrastate onshore liquid 7 = Offshore liquid 8 = Onshore gas/liquid combination 9 = Offshore gas/liquid combination
SSS	Number assigned by the Region for each case regardless of the “type of letter” suffix designation	
T	Type of Enforcement Action Letter sent to the respondent	No letter = Notice of Probable Violation C = Letter of Concern E=Excavation Damage Notice of Probable Violation H = Corrective Action Order or Notice of Proposed Corrective Action Order M = Notice of Amendment S = Notice of Proposed Safety Order W = Warning Letter

Note: For pre-2000 cases, the numbering scheme was as follows: RYFSST. This is similar to the current numbering scheme, except the year designator was only the 4th digit of the year, and the sequential case number was 2 digits instead of 3. For example, 53103W is equivalent to 5-1993-1003W.

5.3 Naming Convention for Administrative Enforcement Documents

Evidence Documents for WMS Activities (Opened January 1, 2020 to present)

All evidence documents must use the following naming convention:

WMS Activity ID_Exhibit L-#_Document Description_Date of Document
Where L = Letter and # = number assigned to evidence file/document.

Examples:

20_174321_Exhibit C-2_photo taken_01232020
20_081015_Exhibit A-1_memo to inspector_03172020
20_062014_Exhibit B-3_Failure Analysis Report_06252019
20-403105_Exhibit D-2_O&M Procedure A-123_08162016
20-870523_Exhibit H-7_Chase Compressor ILI Report_07072017

Case Documents for Work Management System Activities (Opened January 1, 2020 to present)

The file name has 4 sections separated by a “_” character:

Examples: SECTION1_SECTION2_SECTION3_SECTION4
12020003WL_Warning Letter_02192020_(20-108101)
12020006NOA_procedure B-2300 revised_05242020_(20-108101)
22020101CAO_CAO status report_06122020_(20-116327)
32020004NOPSO_Safety Order_07012020_(20-173299)
42020002NOPV_PCP PCO_06152020_(20-008973)
42020002NOPV_Violation Report_06152020_(20-008973)
52020005ENOPV_excavator response to notice_07232020_(123456)

SECTION1 is the CPF NUMBER. This WMS system generated number follows the format of R-YYYY-SSS-TT(TTT). For document naming convention do not include the hyphens “-” between the numbers and letters.

Examples: 12020001LOC 42020007NOPV 32020004WL 52020003ENOPV
22020005NOPSO 42020002CAO 12020006NOA

SECTION2 is a DESCRIPTION OF THE DOCUMENT. Its format is non-case sensitive letters, numbers, and spaces (no special characters). Each document is a separate file.

Examples:

- PCP
- PCO
- PCP PCO
- warning letter
- letter of concern
- notice of amendment
- violation report
- corrective action order
- operator response to notice letter
- operator SENSITIVE response to notice letter (see Subsection 5.6 for withholding guidelines)
- operator REDACTED response to notice letter
- RSI letter
- operator response to RSI letter
- operator request for hearing
- response to request for hearing
- operator request for extension
- response to request for extension
- recommendation
- CAO status report
- response to CAO Status Report
- final order
- safety order
- order directing amendment
- petition for reconsideration
- decision on petition for reconsideration
- withdrawal of notice letter
- closure letter
- proof of payment

SECTION3 is the date of and noted on the document itself. Its format is an eight-digit number MMDDYYYY. Do not use the date the file was created, date the file was sent, or date the document was received.

Examples: 01022008 01152009 12022008 12162008

SECTION4 is the Activity ID. Its format is an eight-digit number (YY-SSSSSS). This is a system generated number when the activity is created. Regions may choose to include this number in parentheses “()” at the end of the document file name.

Examples: (20-022008) (20-152009) (20-022008) (20-162008)

Case Documents for SMART Activities (Opened prior to January 1, 2020)

The originator (or the distributor in the case of a document originating from the operator)¹ of an electronic file assigns the file name in accordance with the following convention:

The file name has 3 sections separated by a “_” character:

Examples: SECTION1_SECTION2_SECTION3

320081012W_warning letter_12192008

320081016_operator response to notice letter_01242008

320081014H_CAO status report_06252008

320161005E_excavator response to notice letter_08162016

SECTION1 is the CPF NUMBER. Its format is numbers only, except for the "M", "H", "S", "C", "W" and "E" suffix characters.

Examples: 320081012W 320081013C 320081014H 320161005E

320081015M 320081016S 320081017

SECTION2 is a DESCRIPTION OF THE DOCUMENT. Its format is upper or lower case letters, numbers, and spaces only. Each document is a separate file.

Examples:

- | | |
|--------------------------------------|--------------------------------|
| - NOPV letter | - operator SENSITIVE |
| - NOPSO letter | response to notice letter (see |
| - NOPCAO letter | Subsection 5.6 for |
| - warning letter | withholding guidelines) |
| - letter of concern | - operator REDACTED |
| - notice of amendment | response to notice letter |
| - violation report | - RSI letter |
| - corrective action order | - operator response to RSI |
| - operator response to notice letter | letter |

¹ Table 4-B in Section 4 shows who the originator/distributor and the distribution for each enforcement document in enforcement proceeding with an Operator.

- operator request for hearing
- response to request for hearing
- operator request for extension
- response to request for extension
- recommendation
- CAO status report
- response to CAO Status Report
- final order
- safety order
- order directing amendment
- petition for reconsideration
- decision on petition for reconsideration
- withdrawal of notice letter
- closure letter
- proof of payment

SECTION3 is the date of and noted on the document itself. Its format is an eight-digit number (MMDDYYYY). Do not use the date the file was created, date the file was sent, or date the document was received.

Examples: 01022008 05112019 11232020 12162018

5.4 Distribution of Enforcement Documents

5.4.1 Documents for the Compliance Registry

With the exception of documents that will be posted on the enforcement transparency website as underlined below, documents sent to the Compliance Registry are best sent in PDF format, however, they can be in PDF, WORD, EXCEL, JPG or other common formats. If the original document included a signature, the file sent to the Compliance Registry must be the electronic version of the document with the signature. E-mails are acceptable if no other documentation exists.

Regions and the Office of Chief Counsel send all the following documents to the Compliance Registry Coordinator (underlined documents are those to which the special requirements of Subsection 5.4.2 apply):

- All correspondence to/from a Region or Office of Chief Counsel to the Respondent or Office of Chief Counsel or Region, such as:
 - Notice Letter (NOPV, NOA, NOPSO, NOPCAO [and Amendments])
 - Warning Letter
 - Letter of Concern
 - RSI letter associated with an enforcement case
 - Withdrawal of Notice letter or Warning Letter
 - Withdrawal of Letter of Concern
 - Response to request for hearing

- Response to request for time extension
- Region recommendation
- Final Order (and Amendments)
- Corrective Action Order (and Amendments)
- Decision on CAO
- Order Directing Amendment (and Amendments)
- Decision on the Petition for Reconsideration
- Safety Order (and Amendments)
- Consent Order
- Settlement Agreement
- Closure Letter (that is dated after June 30, 2010)

→ All correspondence from a Respondent to a Region or Office of Chief Counsel, such as:

- Response to Notice letter, Warning Letter, or Letter of Concern
- Response to RSI letter
- Operator's revised procedures
- Request for time extension
- Request for hearing
- Post-hearing submissions
- Response related to an Order Directing Amendment
- Response related to a Final Order
- Response related to a CAO
- Response related to a Safety Order
- Petition for Reconsideration

→ Other documents, such as:

- Violation Report (including all evidence documents such as maps, drawings, respondent record forms, etc.)
- Additional documents needed to document the case or evidence.

The following documents are not sent to the Compliance Registry:

- Documents that are in draft form
- Other documents not needed to adequately document the case

5.4.2 Documents for the Enforcement Transparency Website

Documents to be posted on the enforcement transparency website are required to meet the requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d).² Documents to which this requirement currently applies are underlined in Subsection 5.4.1 and identically in Subsection 5.5. When Region and Office of Chief Counsel personnel send these documents to the Compliance Registry, specific document format and distribution procedures apply:

- The document sent must be in two file formats – one as a PDF file and the other as a WORD file. Except for the signature on the PDF file, the two documents *must* be identical and have the same file name (except for the .pdf and .doc extensions).
- The PDF file must include the signature.
- Prior to distribution of a Word document, unintended or inappropriate content must be removed, such as comments, revision marks from tracked changes, watermarks, hidden text, headers and footers (except those intended to be part of the document), document version information, annotations and custom XML data. Because both the PDF and Word files must be identical, they must both have the identical date, and the Word document must have the date typed in Word (not stamped) so that it can be converted to meet the section 508 requirements. An auto-date feature that updates the date on the document must not be used.
- The Compliance Registry Coordinator sends both files to the contract personnel.
- Contract personnel will return documents found to have unintended or inappropriate content to the Enforcement Division, who will send the documents back to the document's source for correction. The source of the erroneous document then corrects the document and sends it to the Enforcement Division, who in turn sends the corrected document to contractor personnel.

² Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, Federal employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency. Section 508 also requires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

5.5 Enforcement Transparency Website

5.5.1 Document Preparation and Review

The Compliance Registry Coordinator sends the following documents for cases with dates as noted to contract personnel for inclusion on the enforcement transparency website (<http://www.phmsa.dot.gov/pipeline/enforcement>). Documents are sent no later than when they are entered into the Compliance Registry. Underlined documents are those to which the special requirements of Subsection 5.4.2 apply.

→ **Cases opened 2015 to today:**

- Notice Letter (NOPV, NOA, NOPSO, NOPCAO [and Amendments])
- Warning Letter
- Operator Response to above letters

This includes the operator's substantive responses, operator's responses whose only contents are a request for a hearing, and any statement of issues provided for a hearing

This does not include operator's responses whose only contents are a request for an extension of time and letters from PHMSA to the operator regarding the operator's responses

Enforcement Division personnel will review all operator documents prior to sending them to the contractor for inclusion in the enforcement transparency website. See Subsection 5.6 for guidelines regarding operator documents that will not be sent to the enforcement transparency website.

- Petition for Reconsideration
- Withdrawal of Notice or Warning Letter
- Consent Order
- Safety Order (and Amendments)
- Final Order (and Amendments)
- Corrective Action Order (and Amendments)
- Order Directing Amendment (and Amendments)
- Decision on the Petition for Reconsideration
- Decision on CAO
- Settlement Agreement
- Closure Letter (that is dated after June 30, 2010)

→ **Cases opened 2007 to 2014:**

- Notice Letter (NOPV, NOA, NOPSO, NOPCAO [and Amendments])
- Warning Letter
- Operator Response to above letters

This includes the operator's first response, the operator's additional responses, if any, that change their pleading on any item, and operator's responses whose only contents are a request for a hearing

This does not include operator's responses whose only contents are a request for an extension of time and letters from PHMSA to the operator regarding the operator's responses

Enforcement Division personnel will review all operator documents prior to sending them to the contractor for inclusion in the enforcement transparency website. See Subsection 5.6 for guidelines regarding operator documents that will not be sent to the enforcement transparency website.

- Petition for Reconsideration
- Withdrawal of Notice or Warning Letter
- Consent Order
- Safety Order (and Amendments)
- Final Order (and Amendments)
- Corrective Action Order (and Amendments)
- Order Directing Amendment (and Amendments)
- Decision on the Petition for Reconsideration
- Decision on CAO
- Settlement Agreement
- Closure Letter (that is dated after June 30, 2010)

→ **Cases opened 2002 to 2006:**

- Petition for Reconsideration
- Withdrawal of Notice or Warning letter
- Consent Order
- Safety Order (and Amendments)
- Final Order (and Amendments)
- Corrective Action Order (and Amendments)
- Order Directing Amendment (and Amendments)
- Decision on the Petition for Reconsideration
- Decision on CAO
- Settlement Agreement
- Closure Letter (that is dated after June 30, 2010)

→ **Cases opened before 2002:**

- none

5.6 Documents Containing Sensitive, Privacy Protected or Marked Confidential Information

In order to prevent the release of sensitive information, including privacy-protected information and information marked or designated as confidential, staff that originates documents or the distributor in the case of a document originating from the respondent,³ will review documents before sending them to the Compliance Registry Coordinator.

Staff will review to identify privacy information. Protected privacy information typically includes:

- Social Security numbers
- Age, place and date of birth (birth certificate or stated on other documents)
- Race and/or ethnicity
- Driver's license numbers
- Vehicle tag numbers
- Home address
- Home telephone numbers

³ Table 4-B in Section 4 shows who is the originator/distributor for each enforcement document in enforcement proceeding with an Operator.

- Personal email addresses or personal cell phone numbers
- Bank account numbers (name of bank or copy of check can be released)
- Electronic fund transfer routing codes (for payment of civil penalties)
- Dun & Bradstreet financial reports
- Insurance policy numbers
- Credit and debit card numbers
- Information that the respondent identifies as proprietary, trade secret, or business sensitive. This designation is open to challenge by PHMSA if PHMSA decides the information needs to be evaluated for public disclosure.
- Company time and attendance records
- Health information
- Financial status
- Citizenship data
- Criminal history records
- Names of decedent’s family members
- Coroner (death) reports
- Police reports

Notes:

- This list is not all inclusive. Be alert to other types of sensitive information.
- After analysis under privacy protection laws, there may be certain instances where names, addresses, telephone numbers, or other personal information is released that normally would be protected.

Based on the above review, the originator (or the distributor in the case of a document originating from the respondent)⁴ will assign a file name with the word “SENSITIVE” in it before sending the document to the Compliance Registry Coordinator.

As a quality control measure, Enforcement Division personnel will perform an additional review of documents that originated from the respondent for sensitive information, including privacy-protected information and documents that the respondent has marked, or otherwise designated, as “confidential.”. Note that sometimes submitters of records to PHMSA request confidential treatment in cover letters.

The review process by enforcement staff is to flag any potentially sensitive information and prevent it from being released to the public by PHMSA prior to a full review under the Freedom of Information Act (FOIA) to determine whether it is releasable. Note that

⁴ Table 4-B in Section 4 shows who is the originator/distributor for each enforcement document in enforcement proceeding with an Operator.

prior to any public release, whether in response to a FOIA request or by posting on a PHMSA web site, PHMSA must review any document(s) marked “confidential” to determine whether a FOIA exemption(s) applies to protect the information.

Therefore, to flag the sensitivity and prevent public release before a FOIA determination has been made, based on the above review, Enforcement Division personnel will assign a file name with the word “SENSITIVE” in it, if not already done so by the originator (or the distributor in the case of a document originating from the respondent), for the following respondent’s response documents (and Enforcement personnel will not send these to the contractor for posting on the enforcement transparency website):

- Documents in which PHMSA identifies sensitive or privacy protected information
- Documents designated by the operator as confidential
- Documents redacted by the respondent in which PHMSA discovers sensitive or privacy protected information still showing

Please note that the sensitivities identified by enforcement staff serve to prevent public posting of potentially protected documents. However, PHMSA may complete a FOIA analysis, including any required consultations with the submitter of documents, and determine that the information is publicly releasable.